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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,265	07/31/2003	Richard Albert Brown	ACST003-US0	3790
7590	12/20/2004		EXAMINER	
Patrick Stellitano 2803 Inridge Dr Austin, TX 78745			LIEU, JULIE BICHNGOC	
			ART UNIT	PAPER NUMBER
			2636	

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/631,265	BROWN, RICHARD ALBERT	
	Examiner	Art Unit	
	Julie Lieu	2636	<i>SL</i>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
2. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (US Patent No. 5,045,839).

Claim 10:

Ellis et al. discloses a system or detecting a critical event in the pilothouse of a vessel, comprising:

- a. A motion sensor to detect a condition of no motion existing and
 - b. An alarm responsive to said no-motion condition.

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Though the system in Ellis is not particularly used in a pilothouse; however, it could be used in that environment as desired because the function of the system will not thereby be modified. The detection of absence of motion of a personnel to initiate an alarm would still be achieved.

Regarding the claimed a plurality of motion sensors, the reference suggest incorporating a multi-axis motion detector to detect the motion of a personnel. It would have been obvious to one skilled in the art to use many sensors to ensure that the motion would be detected if there is any movement.

Claim 11:

The condition exists only if no motion is detected by a plurality of sensors during the same time interval. See abstract.

Claim 12:

An alarm is audible only if said condition persists for a specified time interval. Col. 3 last paragraph and col. 4, first paragraph.

Claim 13:

As discussed previously, Ellis does not discuss the use of the device in a pilothouse in particular; therefore a throttle of the vessel in forward or reverse state is not discussed. However, it would have been obvious to one skilled in the art to provide the alarm only if the condition is detected when a throttle of the vessel is in forward or reverse state because it is not necessary to know whether there is a personnel present in the pilot house or not if the vessel is not moving. Depending the environment the system is used, a skilled artisan would have readily known how to modify the system to function accordingly.

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Claim 14:

The alarm in Ellis et al. comprises a first alarm activated if the condition persists for a first specified time interval and a second alarm activated if the condition persists for a second time interval greater than first specified time interval. Col. 3 last paragraph and col. 4, first paragraph.

Claim 15:

In Ellis, an alarm is inaudible if the condition persists for a first specified time interval and is audible if said condition persists for a second specified time interval greater than the first time interval. Col. 3 last paragraph and col. 4, first paragraph.

Claim 16:

Ellis discloses a mechanism for recording the existence and time of conditions for which an alarm is provided. Col. 7, second paragraph to col. 8, first paragraph.

Claim 17:

Ellis discloses a mechanism for observing the existence and time of conditions for which an alarm is provided. Col. 7, second paragraph to col. 8, first paragraph.

Claim 18:

Ellis's motion detector 14 is not an infrared motion detector. However, infrared sensors are conventionally used as motion detectors to detect human motion in a monitored space. Thus, it would have been obvious to one skilled in the art to use infrared sensors in place of the electromechanical sensors in Ellis because they are functionally equivalent.

Claim 19:

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Ellis et al. discloses a system or detecting a critical event in the pilothouse of a vessel, comprising:

- a. A motion sensor to detect a condition of no motion existing and
- b. A mechanism for determining if no motion has been detected by a sensor for a specified time interval (col. 3 last paragraph and col. 4, first paragraph
- c. An alarm responsive to said no-motion condition.

Though the system in Ellis is not particularly used in a pilothouse; however, it could be used in that environment as desired because the function of the system will not thereby be modified. The detection of absence of motion of a personnel to initiate an alarm would still be achieved.

Regarding the claimed a plurality of motion sensors, the reference suggest incorporating a multi-axis motion detector to detect the motion of a personnel. It would have been obvious to one skilled in the art to use many sensors to ensure that the motion would be detected if there is any movement.

Claim 20:

Ellis discloses a mechanism to communicate the existence of the condition to place remote from the monitored place, which is exterior to the place.

Claims 1-9:

The rejection of claims 1-9 recites the rejection of claims 10-18, except they are method claims.

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3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 571-272-2978. The examiner can normally be reached on Mon-Fri 9AM-6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Julie Lieu
Primary Examiner
Art Unit 2636

Dec. 11, 04
